

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
THOMAS D. AND MARIE L. COOPER,  
and RICHARD C. DOOLITTLE,

Appellants,

vs.

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

Respondent,

MARCUS DE PIANO,  
MR. AND MRS. HENRY H. RICE,  
MR. AND MRS. JERALD W. WALLIN,  
and MR. AND MRS. DENNEY C. HUBER,

Intervenors.

PCHB No. 193

FINDINGS OF FACT,  
CONCLUSIONS AND ORDER

This matter, the appeal of the proposed issuance of a permit to intervenors by respondent of its Surface Water Application No. 23698, came before the Pollution Control Hearings Board (Walt Woodward, hearing officer) as a hearing on the merits in the Winter School Room of the Western Washington Research and Extension Center, Puyallup,

1 at 9:30 a.m., March 23, 1973.

2 Marie L. Cooper appeared, Thomas D. Cooper having died since the  
3 inception of this action, and Richard C. Doolittle having withdrawn  
4 as an appellant. Respondent appeared through Wick Dufford, Assistant  
5 Attorney General. Intervenors appearing were Mr. and Mrs. Henry H.  
6 Rice, Mrs. Jerald W. Wallin and Mr. and Mrs. Denney C. Huber. Richard  
7 Reinertsen, Olympia court reporter, recorded the proceedings.

8 Witnesses were sworn and testified. Exhibits were offered and  
9 admitted. Counsel for respondent made a closing argument, as did  
10 Mrs. Cooper.

11 On the basis of testimony heard, exhibits examined and closing  
12 arguments, the Pollution Control Hearings Board prepared Proposed  
13 Findings of Fact, Conclusions and Order which were submitted to  
14 the appellant and respondent on May 11, 1973. No objections or  
15 exceptions to the Proposed Order having been received, the Board  
16 makes and enters the following:

17 FINDINGS OF FACT

18 I.

19 On February 29, 1972, intervenors filed Surface Water Application  
20 No. 23698 with respondent, seeking the withdrawal of 0.12 cubic foot  
21 per second (cfs) for group domestic supply and irrigation from an  
22 officially unnamed stream in Section 9, Township 18 North, Range 5 East,  
23 Pierce County, Washington. The stream, tributary to Carbon River, is  
24 known locally as Kammerad Creek. Protests filed with respondent by Marie  
25 L. Cooper and others resulted in intervenors amending their applicatio  
26 to 0.04 cfs for domestic supply for four homes.

27 FINDINGS OF FACT,  
CONCLUSIONS AND ORDER

II.

Respondent conducted a thorough investigation of the amended application, including three on-site inspections and three low flow water measurements of Kammerad Creek at the Cooper property. At the conclusion of a detailed, six page report, respondent, on August 31, 1972, ordered a domestic use permit to issue under Surface Water Application No. 23698 for 0.04 cfs for four homes (18 gallons per minute), not to exceed three acre-feet in a twelve month period. That permit is the subject of this appeal.

III.

The proposed withdrawal would take place on the DePiano property where Kammerad Creek forms. From the DePiano property, the creek flows in a northerly direction through the Cooper property where there is a 135 thousand gallon capacity pond behind an earth dam.

IV.

Kammerad Creek flows year around and never has been known to run dry. During the period of lowest flow in 1972 (on October 10), a water measurement of 0.19 cfs (86 gallons a minute) was taken of Kammerad Creek as it flowed through the Cooper property. The lowest estimate of flow in Kammerad Creek at the Cooper property is 0.15 cfs. The permit's proposed withdrawal of 0.04 cfs (18 gallons per minute) limited by the three acre-foot annual restriction to an average of 2,880 gallons per day for four homes) would have no appreciable effect on the level of the Cooper pond, even in periods of low flow, and would provide sufficient flowing water to keep the Cooper pond active and non-stagnant.

FINDINGS OF FACT,  
CONCLUSIONS AND ORDER

1 From these Findings, the Pollution Control Hearings Board comes  
2 to these

3 CONCLUSIONS

4 I.

5 There is sufficient water in Karrerad Creek for the proposed  
6 withdrawal.

7 II.

8 The proposed withdrawal would not impair existing water rights.

9 III.

10 The proposed withdrawal would not be detrimental to public  
11 welfare and, specifically, to the welfare of appellant.

12 Therefore, the Pollution Control Hearings Board issues this

13 ORDER

14 The order of respondent in Surface Water Application No. 23698  
15 is affirmed.

16 DONE at Lacey, Washington this 14<sup>th</sup> day of June, 1973.

17 POLLUTION CONTROL HEARINGS BOARD

18 Walt Woodward  
19 WALT WOODWARD, Chairman

20 W. A. Gissberg  
21 W. A. GISSBERG, Member

22 James T. Sheehy  
23 JAMES T. SHEEHY, Member

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27 FINDINGS OF FACT,  
CONCLUSIONS AND ORDER